

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

W.P(C).No. 35420 of 2007(N)

PETITIONER:

**SREE VENKITESWARA AGENCIES,
T.D.SANNIDHI ROAD, ERNAKULAM, REPRESENTED BY
PARTNER T.G.RAJARAM SHENOY.**

**BY ADV. SRI.VIJAYAN. K.U.
SRI.K.N.SREEKUMARAN**

RESPONDENTS:

- 1. ASSISTANT COMMISSIONER (A.A.),
COMMERCIAL TAXES, SALES TAX COMPLEX,
THEVARA, ERNAKULAM.**
- 2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.**
- 3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM AT KAKKANAD.**
- 4. STATE OF KERALA, REPRESENTED BY
THE SECRETARY (TAXES), GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.**

BY GOVT. PLEADER, SRI.TEKCHAND

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ANTONY DOMINIC, J.

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W.P. (C) No. 35420 OF 2007 N
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Dated this the 30th November, 2007

J U D G M E N T

Exts. P1 and P2 are the assessment orders issued under the KVAT Act for the years 2005-06 and 2006-07 and Ext. P1(a) is the order of assessment under the CST Act for the year 2005-06. It is submitted that the rectification applied for by the petitioner was also rejected by Exts. P5 and P6.

2. Petitioner carried the matter in appeal and Exts. P7 and P9 are the appeals filed in respect of the assessment under the KVAT Act and Ext. P8 is the appeal in respect of assessment under the CST Act. Petitioner also submits that in the appeal so filed stay petitions have been filed. Exts. P7(b) and P9(b) stay petitions are filed in Exts. P7 and P9 appeals and Ext. P8 (b) is the stay petition filed in Ext. P8 appeal.

3. While orders are awaited in these proceedings, petitioner submits that revenue recovery proceedings have been initiated as per Exts. P11, P11(a) and P11(b)

and it is in these circumstances the writ petition has been filed.

4. Taking into account the fact that the appellate authority is seized of the matter, although contentions are raised on the merits of the claim of the petitioner, I am not inclined to consider any of them. In view of the pendency of the matter before the appellate authority I direct that the appellate authority shall consider Exts. P7(b), P9(b) and P8(b) applications for stay. This shall be done by the appellate authority within three weeks of receipt of a copy of this judgment.

5. In the meanwhile further proceedings pursuant to Exts. P11, P11(a) and P11(b) shall be deferred for a period of four weeks.

Petitioner shall produce a copy of this judgment before the 2nd respondent for compliance.

**ANTONY DOMINIC
JUDGE**

jan/-